

TRANSMITTAL OF APPEAL BRIEFDocket No.
MCI-10002/29

In re Application of: Lynne McIntyre

Application No.
10/705,307-Conf. #4439Filing Date
November 10, 2003Examiner
T. M. MaiGroup Art Unit
3727

Invention: RECONFIGURABLE TRAVEL TRUNK

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John G. Posa

Attorney Reg. No. : 37,424

GIFFORD, KRASS, SPRINKLE, ANDERSON &
CITKOWSKI, P.C.

2701 Troy Center Drive, Suite 330

Post Office Box 7021

Troy, Michigan 48007-7021

(734) 913-9300

Dated: September 28, 2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of: Lynne McIntyre

Serial No.: 10/705,307

Group No.: 3727

Filed: November 10, 2003

Examiner: T. M. Mai

For: RECONFIGURABLE TRAVEL TRUNK

APPELLANT'S APPEAL BRIEF UNDER 37 CFR §41.37

Mail Stop Appeal Brief
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I. Real Party in Interest

The real party in interest in this case is Lynne McIntyre, Applicant and Appellant.

II. Related Appeals and Interferences

There are no appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

The present application was filed with 19 claims. Claim 2 has been canceled. Claims 4-11 have been withdrawn from consideration. Claims 1 and 3-19 are pending; however, claims 1, 3 and 12-19 are rejected and under appeal. Claims 1 and 16 are the independent claims.

IV. Status of Amendments Filed Subsequent to Final Rejection

No after-final amendments have been filed.

V. Summary of Claimed Subject Matter

Independent claim 1 is directed to a configurable travel trunk (Figure 2A). The trunk comprises

comprising a body portion (102) having an interior with a depth and opposing inner side walls. One or more shelves (110, 110') are disposed within the interior of the body portion (102), each shelf extending from one of the side walls to the other. A closable door portion (104) is hinged to the body portion (102), the door portion (104) having an interior with a back wall defining a door depth. A plurality of fasteners (150) are disposed on the back portion of the back wall of the door. A plurality of modular inserts (Figures 3-8) are provided, each insert having a back surface connectable to the fasteners and a front surface with compartments adapted to carry a different set of items for a particular travel application. One or more removable and reconfigurable shelves (110) have lower tracks (114) and a drawer (120) is configured to slide in and out on the tracks. (Specification, page 5, lines 18 to page 7, line 7).

Independent claim 16 is directed to a configurable travel trunk comprising a body portion (102) including a pair of integrated wheels (123), a retractable handle (124), and an interior with a depth and opposing inner side walls (Figures 1 and 2A). The inner side walls of the body portion include vertical tracks (112) configured to receive a plurality of removable and reconfigurable shelves (110), each shelf including a set of lower tracks (114). One or more sliding drawers (120) are received by the shelf tracks. A closable door portion (104) is hinged to the body portion (102). The door portion has an interior with a back wall defining a door depth less than that of the body portion. A plurality of fasteners (150) are disposed on the back portion of the back wall of the door. A plurality of modular inserts (Figures 3-8) are connectable to the fasteners on the door portion, the inserts including one or more of the following: a personal wardrobe insert providing a plurality of pouches, an open box structure with one or more elastic straps or hooks for hanging, and a pegboard adapted to carry tools or utensils. (Specification, page 5, lines 18 to page 8, line 21).

VI. Grounds of Rejection To Be Reviewed On Appeal

A. The rejection of claims 1, 3, 13 and 18 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,855,612 to Cozerns in view of U.S. Patent No. 6,000,509 to Chrisholm [sic] and/or U.S. Patent No. 5,803,470 to Smith, and further view of U.S. Patent No. 4,531,645 to Tisbo et al.

B. The rejection of claims 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 485,612 to Cozerns as set forth in rejection A above, and further view of U.S. Patent No. 4,890,705 to Penada.

C. The rejection of claims 12 and 19 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 485,612 to Cozerns as set forth in rejection A and B above, and further view of Riley¹.

D. The rejection of claims 14 and 17 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 485,612 to Cozerns as set forth in rejection A and C above, and further view of U.S. Patent No. 6,715,594 to Milionta et al. or U.S. Patent No. 6,334,519 to Tong.

VII. Argument

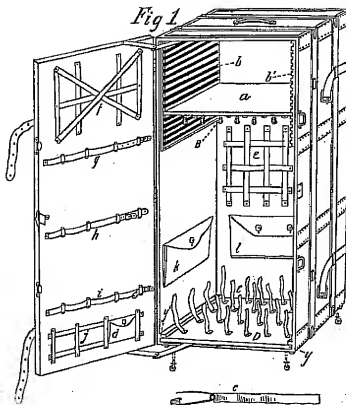
A. The Rejection of Claims 1, 3, 13 and 18.

Claim 1 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 485,612 to Cozerns [sic—Cozens] in view of U.S. Patent No. 6,000,509 to Chrisholm [sic—Chisholm] and/or U.S. Patent No. 5,803,470 to Smith, and further view of U.S. Patent No. 4,531,645 to Tisbo et al.

The invention of Cozens is shown on the next page. The Examiner's statement on page 2, para. 2 of the OA that "meets all the claimed limitation except for the fasteners and the removable modular inserts" is inaccurate. Claim 1 includes, among other limitations, "one or more removable and reconfigurable shelves with lower tracks;" and "a drawer configured to slide in and out on the tracks." Cozens neither teaches nor suggests such structure. Later the Examiner argues that "[w]ith respect to the lower tracks and the drawer .. it would have been obvious [in view of Tisbo] to provide lower track on the shelves to enable one to accommodate additional drawers for storing additional contents." Appellant respectfully disagrees.

Tisbo discloses a portable storage console, having trays 188 received in a rectangular shell. Cozens does not teach any drawers, but the Examiner argues that it would have been obvious to provide Cozens with a "lower track on the shelves to enable one to accommodate additional drawers for storing additional contents." Applicant respectfully disagrees.

¹ Applicant's representative is unable to find a reference number/patent number for "Riley" either in the references listed by Applicant in its Information Disclosure Statement or in the list of cited references in either Office Action. Accordingly, this reference will not be discussed in regard to the rejection of claims 12 and 19.



First, the Examiner's use of "additional drawers" appears to be misplaced, insofar as Cozens has no drawers at all. But in addition, it is noted that the bottom shelf (a) of Cozens (see above) includes a plurality of hooks (B) which cooperate with straps (C) extending upwardly from the bottom shelf (D). In particular, with regard to the series of straps (c),

"the loose end of each of is fixed a safety pin, so that when suspended from one of the hooks B and fixed at the other end to one of the straps c, by means of which of safety-pin each garment will hang firmly and independently of the others in whatever position the trunk may be placed." ('612 patent, col. 1, lines 36-42).

Thus, the bottom portion of the shelf (a) in the '612 patent, serves an important purpose, with a principle of operation that would be defeated if the hooks B were replaced with sliding drawers. If a proposed modification would render a prior art invention being modified unsatisfactory for its intended purposes, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). If a proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings

of the references are not sufficient to render the claims *prima facie* obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA, 1959).

B. The Rejection of Claims 15 and 16.

Claims 15 and 16 stand rejected under 35 U.S.C. §103(a) over Cozens in view of U.S. Patent No. 6,000,509 to Chisholm and/or U.S. Patent No. 5,803,470 to Smith, further view of U.S. Patent No. 4,531,645 to Tisbo et al., and further view of U.S. Patent No. 4,890,705 to Penada. As claim 15 carries with it all of the limitations of claim 1, this claim should be allowable since the Examiner's basic proposed combination of Cozens and Tisbo would render the invention of Cozens unsatisfactory for its intended purposes and would change the principle of operation of the Cozens trunk being modified.

Claim 16, however, is an independent claim with numerous limitations that the Examiner has effectively ignored. In addition to integrated wheels and a retractable handle, claim 16 sets forth vertical tracks configured to receive a plurality of removable and reconfigurable shelves, each shelf including a set of lower tracks, and one or more sliding drawers received by the shelf tracks. The claim also recites a plurality of modular inserts connectable to the fasteners on the door portion, the inserts including one or more of the following: a personal wardrobe insert providing a plurality of pouches; an open box structure with one or more elastic straps or hooks for hanging; and a pegboard adapted to carry tools or utensils.

Such limitations are not disclosed in the cited references, individually or in combination, and the Examiner has presented no substantive arguments in support of the rejection.

C. The Rejection of Claims 12 and 19.

As these claims depend from base claims which Appellant contends are allowable, no further evidence need be presented.

D. The Rejection of Claim 14 and 17.

As these claims depend from base claims which Appellant contends are allowable, no further evidence need be presented.

Conclusion

In conclusion, for the arguments of record and the reasons set forth above, Appellant seeks the Board's concurrence that all pending claims are in condition for allowance.

Respectfully submitted,

By: _____

Date: Sept. 28, 2007

John G. Posa
Reg. No. 37,424
Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C.
PO Box 7021
Troy, MI 48007-7021
(734) 913-9300

APPENDIX A**CLAIMS ON APPEAL**

1. A configurable travel trunk, comprising:
 - a body portion having an interior with a depth and opposing inner side walls;
 - one or more shelves disposed within the interior of the body portion, each shelf extending from one of the side walls to the other;
 - a closable door portion hinged to the body portion, the door portion having an interior with a back wall defining a door depth;
 - a plurality of fasteners disposed on the back portion of the back wall of the door;
 - a plurality of modular inserts, each insert having a back surface connectable to the fasteners and a front surface with compartments adapted to carry a different set of items for a particular travel application;
 - one or more removable and reconfigurable shelves with lower tracks; and
 - a drawer configured to slide in and out on the tracks.
3. The configurable travel trunk of claim 1, wherein one of the modular inserts is a personal wardrobe insert with a front surface including a plurality of pouches.
12. The configurable travel trunk of claim 1, further including a laundry bag that can be rolled and fitted on one of the shelves.
13. The configurable travel trunk of claim 1, wherein the depth of the body portion is substantially larger than the depth of the door portion.
14. The configurable travel trunk of claim 1, including modular inserts having side tabs to assist in removal of that insert from the door portion.
15. The configurable travel trunk of claim 1, wherein the body portion includes a set of

integrated wheels and a retractable handle.

16. A configurable travel trunk, comprising:

a body portion including a pair of integrated wheels, a retractable handle, and an interior with a depth and opposing inner side walls;

the inner side walls of the body portion including vertical tracks configured to receive a plurality of removable and reconfigurable shelves, each shelf including a set of lower tracks;

one or more sliding drawers received by the shelf tracks;.

a closable door portion hinged to the body portion, the door portion having an interior with a back wall defining a door depth less than that of the body portion;

a plurality of fasteners disposed on the back portion of the back wall of the door; and

a plurality of modular inserts connectable to the fasteners on the door portion, the inserts including one or more of the following:

a personal wardrobe insert providing a plurality of pouches,

an open box structure with one or more elastic straps or hooks for hanging, and

a pegboard adapted to carry tools or utensils.

17. The configurable travel trunk of claim 16, including modular inserts having side tabs to assist in removal of that insert from the door portion.

18. The configurable travel trunk of claim 16, wherein one of the modular inserts includes a shoe pouch.

19. The configurable travel trunk of claim 16, further including a laundry bag that can be rolled and fitted on one of the shelves.

APPENDIX B

EVIDENCE

None.

APPENDIX C
RELATED PROCEEDINGS

None.